




## CLOSED CASE SUMMARY

ISSUED DATE: JULY 2, 2023

FROM: DIRECTOR GINO BETTS   
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2023OPA-0007

### **Allegations of Misconduct & Director's Findings**

Named Employee #1

Allegation(s):		Director's Findings
# 1	5.140-POL-2 Officers Will Not Engage in Bias-Based Policing	Not Sustained - Unfounded
# 2	15.180-POL-1 Officer Shall Conduct a Thorough and Complete Search for Evidence	Not Sustained - Unfounded
# 3	1.110 - Public Information POL-1 General Policy 2. Except as May Otherwise Be Authorized by the Chief of Police or His or Her Designee, Employees Shall Not Release Information	Allegation Removed
# 4	15.110 - Investigating Custodial Interference Pol 5 Officers May Inform the Offending Parent of Possible Outcomes	Not Sustained - Unfounded
# 5	15.110 - Investigating Custodial Interference Pol 4. Custodial Interference Reports Must Contain Necessary Information	Not Sustained - Unfounded

***This Closed Case Summary (CCS) represents the opinion of the OPA Director regarding the misconduct alleged and therefore sections are written in the first person.***

### **EXECUTIVE SUMMARY:**

Named Employee #1 (NE#1) responded to child custody disputes involving the Complainants (Complainant #1 and Complainant #2)—who sought custody of Complainant #1's minor siblings. On December 25, 2022, NE#1 responded to a custodial interference call, which later changed to an assault.<sup>1</sup> On December 29, 2022, NE#1 and Witness Employee #1 (WE#1) responded to facilitate a custodial exchange. On January 1, 2023, they responded to investigate a reported emergency guardianship order violation. The Complainants alleged NE#1 was racially biased, conducted inadequate investigations, and failed to document their allegations during his responses.

### **ADMINISTRATIVE NOTE:**

On May 22, 2023, the Office of Inspector General (OIG) certified OPA's investigation as thorough, timely, and objective.

### **SUMMARY OF INVESTIGATION:**

Computer-aided dispatch (CAD) records and NE#1's incident report showed Community Member #1 (CM#1)—Complainant #1's grandmother—called 9-1-1 to report the Complainants took custody of Community Member #3

<sup>1</sup> Incident report number 2022-343268.



(CM#3) and Community Member #4 (CM#4)—Complainant 1’s minor siblings—despite CM#1 having legal custody. CM#1 said the incident stemmed from Complainant #1 being upset about CM#1 disciplining CM#3 for stealing. CM#1 found messaging between Complainant #1 and CM#3, arranging for Complainant #1 to take custody of CM#3 and CM#4 that day. On December 25, 2022, the Complainants went to CM#1’s home, where a physical altercation between Complainant #1 and CM#1 occurred, injuring CM#1’s wrist. The Complainants forced entry into CM#1’s home and left with CM#3 and CM#4. CM#1 recorded the incident. The Puyallup Police Department later found them. That evening, NE#1 and the Seattle Fire Department (SFD) visited CM#1’s home.<sup>2</sup> The Puyallup Police Department also notified SPD that it had Complainant #1 in custody for the earlier assault against CM#1. NE#1 transported Complainant #1 from Puyallup to the South Precinct and CM#3 and CM#4 to CM#1’s home. NE#1 documented that CM#1 provided a Washington State Department of Social and Health Services Division of Child Support (DCS) document dated November 2021, listing her as the “custodial parent/physical custodian.” NE#1 also noted that CM#3 and CM#4 appeared well cared for.

On December 29, 2022, Complainant #1 called 9-1-1 seeking custody of CM#3 and CM#4, claiming she had proof of legal guardianship. NE#1 responded and reviewed a notarized document purportedly signed by CM#3 and CM#4 biological mother, granting Complainant #1 temporary guardianship. NE#1 explained that King County District Court had to bestow custodial rights.

On January 1, 2023, Community Member #5 (CM#5)—CM#3 and CM#4’s mother— reported that CM#1 allowed CM#3 to fly unsupervised to San Diego. NE#1 spoke with CM#1, who confirmed that CM#3 took the trip to visit his brother and that it had been planned for weeks. CM#1 also said Complainant and CM#5 were notified about it well beforehand. Moreover, CM#5 agreed to pick up CM#3 at the airport.

OPA reviewed NE#1’s body-worn videos. In summary, BWV showed:

When NE#1 responded on December 25, 2022, as he approached CM#1’s home, he told WE#1 that he ran Complainant #2’s name and learned he was a “registered sex offender.” It also captured CM#1 explaining that she was awarded custody of CM#3 and CM#4 after her son—their father— “had a mental breakdown” and their mother moved to California. CM#1 also showed NE#1 the video of the Complainants forcing entry and taking the minors.

After NE#1 picked up CM#3 and CM#4 from Puyallup, BWV showed him explaining to Complainant #2 how to get legal custody: “It can’t just be notarized papers from an attorney.” It needs to be through the courthouse.”

NE#1’s December 29, 2022, BWV captured his interactions with Complainant #1. After discussing the validity of her notarized document, she claimed that CM#1 hit her in the head several times on December 25<sup>th</sup> when the Complainants took CM#3 and CM#4. NE#1 explained that CM#1 had a right to defend herself, particularly in her home. NE#1 also advised the Complainants against returning to CM#1’s home.

OPA interviewed the Complainants, Complainant #2’s mother, CM#5, and NE#1. Complainant #2 and his mother were primarily concerned with NE#1 mentioning Complainant #2’s sealed criminal history. Complainant #1 and CM#5 believed NE#1 should have left CM#3 and CM#4 with Complainant #1. Complainant #1 also claimed NE#1 threatened

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<sup>2</sup> NE#1 was not dispatched until that evening, almost 10 hours after CM#1’s 9-1-1 call.



her by advising her not to return to CM#1's home and suggesting that Complainant #2's sex registry requirement could impact her ability to get custody of her siblings.

**ANALYSIS AND CONCLUSIONS:**

**Named Employee #1 - Allegation #1**

***5.140-POL-2 Officers Will Not Engage in Bias-Based Policing***

The Complainants alleged NE#1 engaged in bias-based policing by speaking in Spanish with CM#1 and referencing Complainant #2's sex registry requirement.

SPD prohibits biased policing, defined as "the different treatment of any person by officers motivated by any characteristic of protected classes under state, federal, and local laws as well other discernible personal characteristics of an individual." SPD Policy 5.140-POL. That includes different treatments based on the race of the subject. *Id.*

Here, OPA found no evidence that the Complainants were treated differently based on race or another discernible personal characteristic. Although Complainant #1 told OPA that NE#1 spoke in Spanish with CM#1, suggesting a bond and bias against Complainant #1. However, OPA does not find that to be a reasonable deduction. NE#1 told OPA he did not recall speaking Spanish with CM#1, but even if he did, it would not have violated the department's bias-based policing policy.

Similarly, NE#1's references to Complainant #2's sex registry requirement were made during discussions about Complainant #1 seeking custody of CM#3 and CM#4. NE#1 reasonably suggested that Complainant #2's status would not likely be a mitigating factor toward Complainant #1 seeking custody of children. Although Complainant #2 may have felt embarrassment, it was not NE#1's apparent intention.

Accordingly, OPA recommends this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained - Unfounded**

**Named Employee #1 - Allegation #2**

***15.180-POL-1 Officer Shall Conduct a Thorough and Complete Search for Evidence***

The Complainants alleged that NE#1 conducted inadequate primary investigations.

"All sworn personnel are responsible for knowing how to collect the most common physical evidence that might be encountered on a primary investigation." SPD Policy 15.180-POL-1. "Only evidence that is impractical to collect or submit to the Evidence Unit shall be retained by the owner." *Id.*

Here, OPA found no evidence that NE#1's primary investigations were unthorough or incomplete. During his December 25<sup>th</sup> response, NE#1 interviewed CM#1, reviewed CM#1's video recording and documentation, examined the scene—CM#1's home, and conferred with a detective investigating the custodial dispute. NE#1 photographed and uploaded CM#1's documentation.



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Accordingly, OPA recommends this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained - Unfounded**

**Named Employee #1 - Allegation #3**

***1.110 - Public Information POL-1 General Policy 2. Except as May Otherwise Be Authorized by the Chief of Police or His or Her Designee, Employees Shall Not Release Information***

Complainant #2 alleged NE#1 publicly referred to Complainant #2's sealed criminal history without authorization.

Since SPD 1.110-POL-1(2) covers media releases, which is not an issue, OPA removed this allegation.

Accordingly, OPA recommends this allegation be Removed.

Recommended Finding: **Allegation Removed**

**Named Employee #1 - Allegation #4**

***15.110 - Investigating Custodial Interference Pol 5 Officers May Inform the Offending Parent of Possible Outcomes***

Complainant #1 alleged NE#1 threatened her by telling her not to return to CM#1's home and referencing Complainant #2's sex registry requirement.

Officers may warn the offending party about possible outcomes when investigating custodial interference. See SPD Policy 15.110-POL-5.

Here, the evidence showed that NE#1 advised Complainant #1 against returning to CM#1's home after CM#1 reported that the Complainants forcefully entered her home, Complainant #1 assaulted her, injuring CM#1's wrist, and abducted CM#3 and CM#4, whom CM#1 had legal custody. OPA found that NE#1's warning was good advice rather than a threat. Particularly where SPD policy explicitly allows officers to warn the offending party to custodial interference investigations about possible repercussions for their actions. Moreover, for the reasons at Named Employee #1 – Allegation #1, OPA found NE#1's comments about Complainant #2's sex offender registry requirement consistent with department policy.

Accordingly, OPA recommends this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained - Unfounded**

**Named Employee #1 - Allegation #5**

***15.110 - Investigating Custodial Interference Pol 4. Custodial Interference Reports Must Contain Necessary Information***

Complainant #1 alleged NE#1 inadequately completed a custodial interference report.



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Custodial interference reports must list the involved children, the party denying access to the children, and the party seeking access to the children. SPD Policy 15.110-POL-4. Reports should also include names and birthdates, party relationships, social security numbers if available, whether there is court involvement, available court documents, the welfare of the children, officer actions, and a note for the report to be forwarded to child protective services. *Id.*

Here, NE#1's report listed the involved parties, party relationships, Complainant #1's notarized documents, and CM#1's DCS notice. It also captured Complainant #1 and CM#1's allegations and claims to CM#3 and CM#4.

Accordingly, OPA recommends this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained - Unfounded**